

MEMORANDUM State of Alaska

Department of Environmental Conservation

Division of Air and Water Quality

TO: Diane Mayer, Director DATE: April 10, 1997

OMB/DGC

Office of the Governor FILE: 74.03

THRU: Michael Conway, Acting Director TELEPHONE NO: 465-5100; FAX: 465-5129

Division of Air & Water Quality

FROM: Carl Schrader, Program Manager, ACMP SUBJECT: ACMP and Air Quality Permits

Jim Baumgartner, AQ Construction Permits

Air Quality Maintenance Section, Juneau

Alfred K. Bohn, Air Quality Operating Permits

Air Quality Maintenance Section, Anchorage

Re: Interagency Working Agreement--Project consistency review and air quality permitting activities

We are pleased to return to you two copies of the interagency working Agreement with Michael Conway's signature. Please sign both copies, return one to the Department's Air Quality Maintenance Section, and retain the second copy.

We appreciate the effort of your staff's work to develop this agreement through an inclusive interagency process. The Agreement is an important leap in establishing the interagency cooperation and coordination requisite for implementing the Alaska Coastal Management Program (ACMP).

This new agreement specifies the procedures our Air Quality Maintenance staff will provide for implementing the ACMP through our permitting programs. Although the Department has been involved with these issues to some extent, this agreement implies a greater and more regular commitment between our agencies.

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Attachments

INTERAGENCY WORKING AGREEMENT
TO CONDUCT PROJECT CONSISTENCY REVIEW UNDER
THE ALASKA COASTAL MANAGEMENT PROGRAM
FOR AIR QUALITY CONTROL PERMITS

1. INTRODUCTION

The Air Quality Maintenance Section (AQM) of the Department initiated a new Construction Permit Program and Operating Permit Program in January 1997. The new programs replace AQM's system of conducting pre-construction review, then issuing operating permits. As a result, AQM and the Division of Governmental Coordination (DGC) agree to new procedures for conducting project consistency review of permitting actions under the Alaska Coastal Management Program (ACMP).

II. BACKGROUND & PURPOSE

AQM prepared the attached issue paper on December 9, 1996, describing the background and recommendations for project review. Based upon this issue paper and subsequent meetings, AQM and DGC agree to conduct consistency review according to procedures listed below.

III. APPLICABILITY

This agreement applies to Construction and Operating Permits issued under Air Quality Control Regulations 18 AAC 50.

IV. IMPLEMENTATION PROCEDURES

CONSTRUCTION PERMITS ISSUED UNDER 18 AAC 50:

1. Unless otherwise extended through 6 AAC 50.110, or as provided in Section 2, the coordinating agency under the ACMP will conduct a 50-day project consistency review for projects subject to Construction Permitting.
2. For projects that meet the terms of GC-13, GC-13A, GC-26, or GC-27, the Department will issue a construction permit under the applicable General Concurrence.
3. Construction permit applications associated with the following are not subject to consistency reviews: applications from facility operators proposing emission reductions, and applications from facility operators requesting the Department revise or rescind permit terms or conditions not established as stipulations under past consistency reviews.
4. Construction permits issued to existing facilities that maintain or reduce emissions will not be subject to further project consistency review under the ACMP.

OPERATING PERMITS ISSUED UNDER 18 AAC 50:

1. For projects requiring consistency review under the ACMP, and which need both an air quality control operating permit and construction permit, the coordinating agency will conduct project consistency review during construction permitting activities. Unless otherwise arranged by the coordinating agency, the Department will list the same project consistency stipulations on both construction and operating permits issued to the project.
2. Unless otherwise extended through 6 AAC 50.110, or as provided in Section 3, the coordinating agency under the ACMP will conduct a 50-day project consistency review for projects which need an air quality control operating permit, but no construction permit.
3. For projects that meet the terms of GC-13, GC-13A, GC-13B, GC-26, or GC-27, the Department will issue an operating permit under the applicable general concurrence.
4. Operating permits issued to existing facilities that maintain or reduce emissions will not be subject to further project consistency review under the ACMP

V. EFFECTIVE DATE AND TERMINATION

This agreement becomes effective when signed by all participating agencies. Any signatory may choose to withdraw from this agreement upon 30-day written notice to all other signatories. This agreement will remain in effect for two years, at which time it will be reassessed and the signatories will decide to extend, modify, or terminate the Agreement. In addition, the Agreement will be modified if agreed by a consensus of the signatories.

Michael A. Conway, Acting DirectorDate

Division of Air & Water Quality

Department of Environmental Conservation

Director, Office of Management and BudgetDate

Division of Governmental Coordination

Attachment: December 9, 1996 issue paper

ISSUE PAPER

AIR QUALITY CONTROL PERMITS

AND ALASKA COASTAL MANAGEMENT PROGRAM

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

December 9, 1996

The Air Quality Maintenance Section (AQM) of the Department will initiate a Construction Permit Program and Operating Permit Program in January 1997. The new programs will replace our present system of conducting pre-construction review and issuing operating permits. The new programs will require Division of Governmental Coordination (DGC) concurrence of new procedures for project consistency review of permitting actions issued in conjunction with the Alaska Coastal Management Program (ACMP).

1.ISSUE STATEMENT

Procedures for conducting Project review under the ACMP are needed for the new Air Quality Construction Permit and Operating Permit Programs.

2.BACKGROUND

AQM currently issues operating permits for construction, modification reconstruction, and operation of certain stationary facilities under 18 AAC 50. The Department is developing an operating permit program to comply with 1990 changes to the Federal Clean Air Act and legislative mandates listed in 46.14 by rewriting 18 AAC 50. The

Department plans to separate the construction and modification permitting activities from the operating permit program to a new construction permitting program.

Air Quality Control Rule Changes

The new construction permitting program incorporates the pre-construction review procedures currently required under the Department's operating permit program. The Department has further developed a mandatory thirty-day public notice requirement for each construction permitting activity. The current process allows for Department discretion not to public-notice existing facility modifications.

The revised regulations, 18 AAC 50, were adopted on September 17, 1996, and will take effect 30 days after the regulations are filed at the Lieutenant Governor's Office. The regulations' enabling statutes took effect December 6, 1996. Our regulatory development staff estimate our Construction Permit and Operating Permit regulations will take effect in mid-January 1997.

State permitting activities of projects are subject to consistency review provisions listed in 6 AAC 50.010. Under 6 AAC 50.110 and 6 AAC 50.050, the Department, in consultation with the Division of Governmental Coordination, needs to establish whether projects subject to construction and operating permit actions should be reviewed under a thirty-day review period or fifty-day review period, and whether activities permitted under the Air Quality Control Permit programs may continue to be expedited by categorical approval or general concurrence.

3.RECOMMENDATIONS

AQM, in concurrence with DGC, should identify and agree that all Air Quality Control permitting activities which are not associated with project consistency reviews need not be subject to consistency review under ACMP. Permitting activities not associated with construction, reconstruction, or modification of emission sources, such as permit renewals, revision of permit terms and conditions, and voluntary emission reduction requests, do not appear to constitute projects under ACMP.

To the extent possible, AQM should continue use of General Concurrence lists for construction and operating permit activities found to have no significant impact on the coastal zone. AQM has developed and received five general concurrences for the following air quality control permit activities: Asphalt Plant permits, Soil Remediation Permits, Emissions from Flaring, operating permits for existing facilities, and renewals and amendments of permits for facilities not subject to pre-construction review under the prevention of significant deterioration program. AQM has identified general concurrence stipulations that are no longer relevant under the Clean Air Act and AQM's regulations. During the next period for which DGC opens the B-list to amendments, the AQM staff will recommend language changes for the permit stipulations in order to resolve the relevancy issue identified by AQM.

AQM recommends the reviewing agency conduct a 50-day individual project consistency review process during the construction permit activities of a project not subject to the General Concurrences listed in Item B. The operating permit may subsequently be issued for the project incorporating project consistency stipulations developed during the Construction Permit action. If a project requires an operating permit and no construction permit, the reviewing agency conducts the 50-day consistency review during the operating permit activities.

A 50-day review period is warranted for the Air Quality Control permitting actions, as each permitting action requires, as a minimum, a thirty-day public comment period. AQM asserts a 50-day clock provides the flexibility needed in order to provide proactive responses.